

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BELLE TO ENCHANTRESS HAZEL A.
PRIMOUS CIA OF DC AND CIA AFRICA , DC
BOARD OF ELECTIONS,

Plaintiff,

-against-

NYS BOARD OF ELECTIONS EXECUTIVE
BOARD KRISTEN ZEBROWSKI STAVISKY;
RAYMOND J. RILEY III; COMMISSIONERS
HENRY BERGER; CO-CHAIR
COMMISSIONER PETER KOSINSKI; CO-
CHAIR COMMISSIONER ESSMA
BAGNUOLA; COMMISSIONER ANTHONY
CASALE; CANDIDATES SOUTHERN
DISTRICT US ATTORNEY GENERAL JOON
KIM; PREET BHARABA,

Defendants.

24-CV-6268 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is appearing *pro se*, brings this action under the Court’s federal question jurisdiction and diversity of citizenship jurisdiction. By order dated September 19, 2024, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees. The Court dismisses the complaint for the reasons set forth below.

STANDARD OF REVIEW

The Court must dismiss an IFP complaint, or any portion of the complaint, that is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); *see Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998). The Court must also dismiss a complaint when the Court lacks subject matter jurisdiction of the claims raised. *See* Fed. R. Civ. P. 12(h)(3). While the law mandates dismissal on any of these grounds, the Court is

obliged to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and interpret them to raise the “strongest [claims] that they suggest,” *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006) (internal quotation marks and citations omitted) (emphasis in original). But the “special solicitude” in *pro se* cases, *id.* at 475 (citation omitted), has its limits – to state a claim, *pro se* pleadings still must comply with Rule 8 of the Federal Rules of Civil Procedure, which requires a complaint to make a short and plain statement showing that the pleader is entitled to relief.

A claim is frivolous when it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 324-25 (1989), *abrogated on other grounds by Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007); *see also Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992) (holding that “finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible”); *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998) (“[A]n action is ‘frivolous’ when either: (1) the factual contentions are clearly baseless . . . ; or (2) the claim is based on an indisputably meritless legal theory.” (internal quotation marks and citation omitted)).

BACKGROUND

The following facts are drawn from the complaint, arising from events alleged to have occurred from 2016 through 2019.¹

[F]alsely being accused of being a evil queen, snow white, Mulan, my older sister octoria Primous husband Joon Kim.

Southern district US attorney general Joon Kim, Preet bharaba, etc for starting a fight outside NYC beauty supply store off west ridge Rd same plaza US armed

¹ The Court quotes from the complaint verbatim. All capitalization, spelling, grammar, and punctuation are as in the original unless otherwise indicated.

forces offices at the time of my pedestrian car accident on 01 29 2019. by frank Roberts calcagno -peter Pan to hunchback, mermaid.

(ECF 1 ¶ I.)

Arrest the NYS board of elections executive and commissioners needs to stop making false assumptions and tampering with evidence. trying to switch octoria information with mines Hazel Primous. I'm higher rank with HQ in DC this illegal cross examinations, sexual harassment your clients Joon Kim and Preet bharaba, Daniel Sherman and Andrew Martinez Sr is from CA board of elections and US armed forces this sounds obsessiveness because I'm CIA of Africa and Belle. Southern district US attorney general Joon Kim, Preet bharaba, etc for starting a fight outside NYC beauty supply store off west ridge Rd same plaza US armed forces offices at the time of my pedestrian car accident on 01 29 2019. by frank Roberts calcagno peter Pan to a gay merman whose interested in the store clerk. I'm falsely being accused of being a evil queen, snow white, Mulan, my older sister octoria Primous husband Gotham district attorney Joon Kim. Southern district of NY US attorney general Joon Kim made a deal with evil queen Anna wintour China for 70 billion in 2016. Snow white and huntress octoria Primous and love interest Harry Sims Gotham district attorney Joon Kim. which will then make them Mulan and li shang Jet li Hollywood actor. Preet bharaba is princess Jasmine and superwoman Kardashians and she's supposed to pick Matthew Primous flash, David Primous' black Adam, jerel darrisaw iron Man Cinderella to frozen is Pamela Primous and prince charming and kocoum Samson? or Thor Chris Hemsworth and Jane Foster Pamela I'm enchantress to Belle and miss universe of Nubia. I'm supposed to pick beast or Gaston.

(*Id.* ¶ III.)

With respect to the injuries Plaintiff allegedly sustained, she asserts:

personal injuries from pedestrian car accident on 01 29 2019 by frank Roberts calcagno outside NYC beauty supply store set up by southern district of NY US attorney general Joon Kim Preet bharaba team 630 W Ridge Rd, Rochester, NY 14615.

(*Id.*) Plaintiff seeks the following relief:

class action suit against NYS board of elections for attacking DC board of elections and miss universe of Nubia Belle to enchantress sexual harassment!

(*Id.* ¶ IV.)

DISCUSSION

Even when the Court construes Plaintiff’s pleadings with the “special solicitude” due to *pro se* pleadings, *Triestman*, 470 F.3d at 475, the Court finds that the allegations do not plausibly allege a violation of Plaintiff’s rights. The Court must not dismiss a complaint simply because the facts alleged appear to be “unlikely,” *Denton*, 504 U.S. at 33, but a finding of factual frivolousness is warranted when the facts alleged are “clearly baseless,” “fanciful,” “fantastic,” “delusional” or wholly incredible, “whether or not there are judicially noticeable facts available to contradict them.” *Id.* at 32-33; *see Livingston*, 141 F.3d at 437. “Plaintiff’s beliefs – however strongly [s]he may hold them – are not facts.” *Morren v. New York Univ.*, No. 20-CV-10802 (JPO) (OTW), 2022 WL 1666918, at *18 (S.D.N.Y. Apr. 29, 2022) (citation omitted), *report and recommendation adopted*, 2022 WL 1665013 (S.D.N.Y. May 25, 2022).

The Court finds that, because Plaintiff does not provide any plausible factual support for her claims that Defendants are sexually harassing her, falsely accusing her of being an “evil queen,” or any of her other allegations, they rise to the level of the irrational and must be dismissed as frivolous. *See Kraft v. City of New York*, 823 F. App’x 62, 64 (2d Cir. 2020) (summary order) (holding that “the district court did not err in *sua sponte* dismissing the complaint as frivolous,” based on the plaintiff’s allegations that he had “been the subject of 24-hour, multi-jurisdictional surveillance by federal ‘fusion centers’ and the New York State Intelligence Center, which put a ‘digital marker’ on him in order to collect his personal data and harass him”).

District courts generally grant a *pro se* plaintiff an opportunity to amend a complaint to cure its defects, but leave to amend is not required where it would be futile. *See Hill v. Curcione*, 657 F.3d 116, 123-24 (2d Cir. 2011); *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Because the defects in Plaintiff’s complaint cannot be cured with an amendment, the Court

declines to grant Plaintiff leave to amend and dismisses the action as frivolous. *See* 28 U.S.C. § 1915(e)(2)(B)(i).

WARNING

Plaintiff has filed several other *pro se* cases in this Circuit that have been dismissed as frivolous. *See Primous v. United States Att’y Gen. James*, No. 24-CV-6143 (W.D.N.Y. Mar. 15, 2024) (dismissing complaint as frivolous), *appeal pending* No. 24-1011 (2d Cir.); *Primous v. Inspector Gen. DOJ*, No. 15-CV-6086 (W.D.N.Y. June 10, 2015) (dismissing complaint as frivolous), No. 15-2171 (2d Cir. Oct. 1, 2015) (dismissing appeal as frivolous).²

The Court cannot tolerate the abuse of its limited resources. Plaintiff is warned that if she continues to pursue frivolous litigation in this Court, she may be ordered to show cause why she should not be barred from filing new actions IFP unless she receives prior permission. *See* 28 U.S.C. § 1651

CONCLUSION

Plaintiff’s complaint is dismissed as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i).

Plaintiff is warned that if she continues to pursue frivolous litigation in this Court, she may be ordered to show cause why she should not be barred from filing new actions IFP unless she receives prior permission.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

² *See Primous v. Sarkis*, 24-CV-6513 (W.D.N.Y. Sept. 17, 2024) (administratively closing case for failure to pay fee or file IFP application). Plaintiff initially filed that complaint in this court. *Primous v. Sarkis*, 24-CV-6128 (LTS) (S.D.N.Y. Aug. 15, 2024) (transferring matter to the Western District of New York).

The Court directs the Clerk of Court to enter judgment in this action.

SO ORDERED.

Dated: October 28, 2024
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge